

SENATE BILL NO. 370

INTRODUCED BY SQUIRES, LENHART

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR COUNTY DETENTION OFFICER MEMBERSHIP IN THE SHERIFFS' RETIREMENT SYSTEM; AMENDING SECTIONS 19-7-101, 19-7-301, AND 19-7-302, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-7-101, MCA, is amended to read:

"19-7-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) (a) "Compensation" means remuneration paid from funds controlled by an employer for the member's services or for time during which the member is excused from work because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence before any pretax deductions allowed by state or federal law are made.

(b) Compensation does not include maintenance, allowances, and expenses.

(2) "Detention officer" means any detention officer, as defined in 44-4-302, who is hired by a sheriff, employed in a detention center, and acting as a detention officer for the sheriff and who has received or is expected to receive training to meet the employment standards set by the board of crime control pursuant to 44-4-301 for detention officers.

~~(2)~~(3) "Highest average compensation" means a member's highest average monthly compensation during any 36 consecutive months of membership service or, in the event a member has not served at least 36 months, the total compensation earned divided by the number of months of service. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

~~(3)~~(4) "Investigator" means a person who is employed as a criminal investigator or as a gambling

investigator for the department of justice.

~~(4)(5)~~ "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff with the requisite professional certification and licensing."

Section 2. Section 19-7-301, MCA, is amended to read:

"19-7-301. Membership -- inactive vested members -- inactive nonvested members. (1) (a) Except as provided in subsection (1)(b), each sheriff shall become a member of the sheriffs' retirement system.

(b) A sheriff who was a member of the public employees' retirement system on July 1, 1974, may remain a public employees' retirement system member or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(2) (a) Except as provided in subsection (2)(b), an investigator shall become a member of the sheriffs' retirement system.

(b) An investigator who was a member of the public employees' retirement system on July 1, 1993, may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board at any time before retirement.

(3) (a) Except as provided in subsection (3)(b), a detention officer shall become a member of the sheriffs' retirement system.

(b) A detention officer who was a member of the public employees' retirement system on [the effective date of this act] may remain in the public employees' retirement system or elect to become a member of the sheriffs' retirement system by filing a written election with the board before May 1, 2006.

~~(3)(4)~~ A member of the public employees' retirement system who begins employment in a position covered by the sheriffs' retirement system may remain in the public employees' retirement system or may elect to become a member of the sheriffs' retirement system by filing a written election with the board no later than 30 days after beginning the employment.

~~(4)(5)~~ A sheriff or investigator who elects to become a member of the sheriffs' retirement system must be an active member as long as actively employed in an eligible capacity, except as provided in 19-7-1101(2).

~~(5)(6)~~ A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

1 ~~(6)~~(7) A member with less than 5 years of membership service who terminates service and leaves the
2 member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not
3 eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund
4 of the member's accumulated contributions."

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6 **Section 3.** Section 19-7-302, MCA, is amended to read:

7 **"19-7-302. Ineligibility for membership in public employees' retirement system.** (1) After July 1,
8 1974, a sheriff may not become a member of the public employees' retirement system and the provisions of The
9 Public Employees' Retirement System Act do not apply to sheriffs.

10 (2) After July 1, 1993, an investigator is not eligible to become a member of the public employees'
11 retirement system and the provisions of The Public Employees' Retirement System Act do not apply to
12 investigators, except as provided in 19-7-301.

13 ~~(3) After [the effective date of this act], a detention officer is not eligible to become a member of the~~
14 ~~public employees' retirement system and the provisions of The Public Employees' Retirement System Act do~~
15 ~~not apply to detention officers, except as provided in 19-7-301.~~

16 ~~(3)~~ (4) This chapter may not be construed to deny any sheriff or investigator any benefits accrued under
17 provisions of the public employees' retirement system prior to membership in this retirement system."

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19 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2005.

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